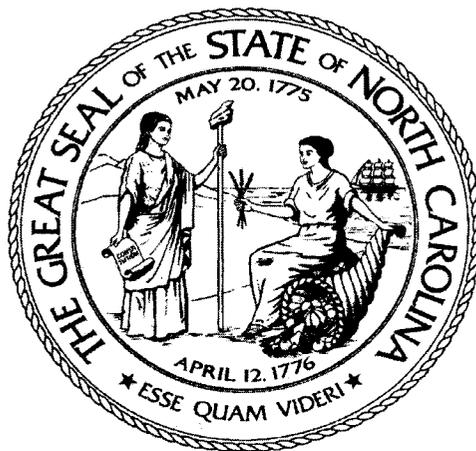


LEGISLATIVE RESEARCH COMMISSION

**COMMITTEE ON THE ASSESSMENT OF
REGULATED AND NON-REGULATED
INDUSTRY UTILITY FEES**

NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA**

MARCH, 2014

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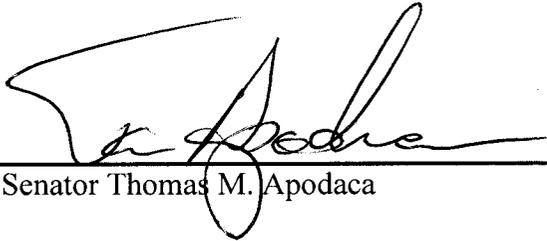
TRANSMITTAL LETTER

May 13, 2014

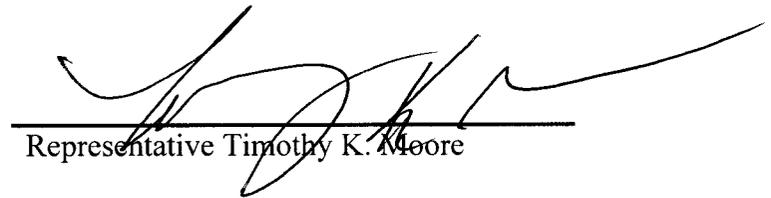
TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees, pursuant to G.S. 120-30.17(1).

Respectfully submitted,



Senator Thomas M. Apodaca



Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Representative Timothy K. Moore
Co-Chair

Senator Phil Berger, Ex Officio
Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative Thom Tillis, Ex Officio
Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of **the Assessment of Regulated and Non-Regulated** Industry Utility Fees, under authority of G.S. 120-30.17(1). The Committee was chaired by Senator Harry Brown and Representative Mike Hager, Co-Chairs of the Committee. The full membership of the Committee is listed under Committee Membership. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2013-2014** biennium.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees met 2 times after the 2013 Regular Session. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

The first meeting of the LRC Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees took place on Thursday, December 19, 2013 at 9:30 A.M. in Room 544 of the Legislative Office Building. The Committee heard the following presentations:

- Mr. Timothy Dale, Fiscal Analyst, Fiscal Research Division, provided the committee with a general overview and a brief history of the regulatory fee charged to public utilities in the State. Mr. Dale noted that the regulatory fee generates roughly \$14.1 million in annual revenue which is used to fund the activities of the Utilities Commission and the Public Staff, with annual budgets of approximately 6.4 million and 7.8 million respectively. Finally, Mr. Dale compared the regulatory fee structure to those in Virginia, South Carolina, and Georgia.
- Mr. Dwight Allen, North Carolina Telecommunications Association, provided the committee with a brief history of changes to the regulatory fee and their impact on the industry. The changes discussed included deregulation of long distance telecommunications, local exchange services, and broadband services, as well as the differing regulatory structures for telecommunications companies.
- Mr. Edward Finley, Chairman, North Carolina Utilities Commission, provided the committee with information about how the proceeds of the regulatory fee that are allocated to the Utilities Commission are expended. Chairman Finley also discussed the impact of the State's renewable energy portfolio standard on the workload of the Utilities Commission and the fees paid by companies operating renewable energy projects.
- Mr. Chris Ayers, Executive Director, Public Staff, provided the committee with information about how the proceeds of the regulatory fee that are allocated to the Public Staff are expended, including the individual budgets of each division and their duties. Mr. Ayers also discussed the differences between the Utilities Commission and the Public Staff and how they interact. Finally, Mr. Ayers discussed the future needs of the Public Staff and how those needs will impact budgetary matters.

- Ms. Heather Fennell, Staff Attorney, Research Division, presented the committee with a bill draft that would remove retail telecommunications revenues from the definition of jurisdictional revenues that are used to calculate the regulatory fee. The bill draft would further allow the General Assembly to set different regulatory fee rates for the retail services of telecommunications providers that elect to be regulated under G.S. 62-133.5(h) or (m) for fiscal years 2015 and 2016 while keeping a single regulatory fee rate for non-competitive jurisdictional revenues. The bill draft would also allow utilities to recover the cost of an increase in the regulatory fee earlier without requiring a rate case proceeding. The bill would be effective July 1, 2015.

The second meeting of the LRC Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees took place on Thursday, March 20, 2014 at 9:30 A.M. in Room 544 of the Legislative Office Building. The Committee staff reviewed the proposed draft legislation. The Committee discussed the draft proposal and the draft Committee report. The Committee then voted to approve the proposed draft legislation and the Committee report.

FINDINGS AND RECOMMENDATIONS

The Committee finds that the General Assembly enacted G.S. 62-133.5(h) in 2009, to allow a local exchange company whose territory is open to competition from other local providers to elect to participate in an alternative form of regulation. After electing to be regulated under (h), local exchange companies are no longer required to file tariffs and certain reports, including service line, access line, and service quality reports with the Utilities Commission.

The Committee finds that the General Assembly enacted G.S. 62-133.5(m) in 2011, to allow a local exchange company whose territory is open to competition from other local providers to elect to participate in another alternative form of regulation. After electing to be regulated under subsection (m), regulation is the same as for companies that are regulated under subsection (h), except that local exchange companies no longer have carrier of last resort responsibilities, are not eligible to receive funds from a state fund that may be established to support universal service, and are not required to provide stand-alone basic service to rural companies at rates comparable to rates charged to urban customers.

Based on the above findings the Committee recommends the utility regulatory fee be amended to reduce the fee imposed upon the retail revenues of local exchange companies that elect to participate under the alternative form of regulation allowed under either G.S. 62-133.5(h) or G.S. 62-133.5(m).

The Committee further recommends that the regulatory fee imposed on jurisdictional revenues other than the retail revenues of local exchange companies that elect to participate under the alternative form of regulation allowed under either G.S. 62-133.5(h) or G.S. 62-133.5(m) be adjusted to reflect the decrease in the regulatory fee as a result of its recommendations.

The Committee further recommends that the General Assembly set the regulatory fee to ensure the total regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund.

COMMITTEE MEMBERSHIP

2013-2014

President Pro Tempore of the Senate
Appointments:

Senator Harry Brown, Co-Chair

Senator E.S. Newton
Senator Kathy Harrington
Senator Fletcher Hartsell
Senator Clark Jenkins
Senator Thomas M. Apodaca, Ex Officio

Speaker of the House of Representatives
Appointments:

Representative Mike Hager, Co-Chair

Representative Elmer Floyd
Representative David Lewis
Representative Jason Saine
Representative Harry Warren
Representative Timothy K. Moore, Ex Officio

COMMITTEE CHARGE

Assessment of Regulated and Non-Regulated Industry Utility Fees - The LRC Study Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees shall examine the regulatory fee structure of the North Carolina Utilities Commission to ensure that fees are not inequitably assessed. The committee shall place particular focus on the fees assessed to entities that opted for lower levels of regulation. The committee may also consider appropriate remedies to ensure sufficient funding to allow the Utilities Commission to fulfill its statutory obligations.

The committee may study other issues pertinent to this study.

STATUTORY AUTHORITY

NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

LEGISLATIVE PROPOSALS

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

U

D

BILL DRAFT 2013-TDfz-19 [v.10] (12/16)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
12/18/2013 2:02:45 PM**

Short Title: Adjust the Utility Regulatory Fee. (Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

**AN ACT TO ADJUST THE UTILITY REGULATORY FEE TO REFLECT THE
CHANGING REGULATORY CLIMATE FOR THE TELECOMMUNICATIONS
INDUSTRY.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-302 reads as rewritten:

"§ 62-302. Regulatory fee.

(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as provided in this section.

(b) Public Utility Rate. –

(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

(2) The—For non-competitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory

1 fee for each fiscal year ~~shall be~~ is the greater of (i) a percentage rate,
 2 established by the General Assembly, of each public utility's ~~North~~
 3 ~~Carolina non-competitive jurisdictional~~ revenues for each quarter or
 4 (ii) six dollars and twenty-five cents (\$6.25) each quarter. For
 5 subsection (h) competitive jurisdictional revenues as defined in
 6 sub-subdivision (4)b. of this subsection, and subsection (m)
 7 competitive jurisdictional revenues as defined in sub-subdivision (4)c.
 8 of this subsection, the public utility regulatory fee for each fiscal year
 9 is a percentage rate established by the General Assembly of each
 10 public utility's competitive jurisdictional revenues for each quarter.

11 When the Commission prepares its budget request for the
 12 upcoming fiscal year, the Commission shall propose a percentage rate
 13 of the public utility regulatory fee. For fiscal years beginning in an
 14 odd-numbered year, that proposed rate shall be included in the budget
 15 message the Governor submits to the General Assembly pursuant to
 16 G.S. 143C-3-5. For fiscal years beginning in an even-numbered year,
 17 that proposed rate shall be included in a special budget message the
 18 Governor shall submit to the General Assembly. The General
 19 Assembly shall set the percentage rate of the public utility regulatory
 20 fee by law.

21 The percentage rate may not exceed the amount necessary to
 22 generate funds sufficient to defray the estimated cost of the operations
 23 of the Commission and the Public Staff for the upcoming fiscal year,
 24 including a reasonable margin for a reserve fund. The amount of the
 25 reserve may not exceed the estimated cost of operating the
 26 Commission and the Public Staff for the upcoming fiscal year. In
 27 calculating the amount of the reserve, the General Assembly shall
 28 consider all relevant factors that may affect the cost of operating the
 29 Commission or the Public Staff or a possible unanticipated increase or
 30 decrease in North Carolina jurisdictional revenues.

31 (3) If the Commission, the Public Staff, or both experience a revenue
 32 shortfall, the Commission shall implement a temporary public utility
 33 regulatory fee surcharge to avert the deficiency that would otherwise
 34 occur. In no event may the total percentage rate of the public utility
 35 regulatory fee plus any surcharge established by the Commission
 36 exceed twenty-five hundredths percent (0.25%).

37 (4) As used in this section, ~~the term "North Carolina jurisdictional~~
 38 ~~revenues" means:~~section:

39 a. "Non-competitive jurisdictional revenues" means all
 40 revenues derived or realized from intrastate tariffs, rates, and
 41 charges approved or allowed by the Commission or collected
 42 pursuant to Commission order or rule, but not including tap-on
 43 fees or any other form of contributions in aid of construction.

44 b. "Subsection (h) competitive jurisdictional revenues" means all
 45 All-revenues derived from retail services provided by local

1 exchange companies and competing local providers that have
2 elected to operate under no longer otherwise regulated by the
3 operation of G.S. 62-133.5(h) or
4 G.S. 62-133.5(h).G.S. 62-133.5(m) for a local exchange
5 company or competing local provider that has elected to be
6 regulated under those subsections.

7 c. "Subsection (m) competitive jurisdictional revenues" means all
8 revenues derived from retail services provided by local
9 exchange companies and competing local providers that have
10 elected to operate under G.S. 62-133.5(m).

11 ...

12 (e) Recovery of fee increase. – If a utility's regulatory fee obligation is increased,
13 the Commission shall either adjust the utility's rates to allow for the recovery of the
14 increased fee obligation, or approve the utility's request for an accounting order
15 allowing deferral of the increase in the fee obligation."

16 **SECTION 2.(a)** The percentage rate to be used in calculating the public
17 utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina
18 subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b.
19 earned during each quarter that begins on or after July 1, 2015, is six hundredths of one
20 percent (0.06%).

21 **SECTION 2.(b)** The percentage rate to be used in calculating the public
22 utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina
23 subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b.
24 earned during each quarter that begins on or after July 1, 2016, is four hundredths of one
25 percent (0.04%).

26 **SECTION 3.(a)** The percentage rate to be used in calculating the public
27 utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina
28 subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c.
29 earned during each quarter that begins on or after July 1, 2015, is five hundredths of one
30 percent (0.05%).

31 **SECTION 3.(b)** The percentage rate to be used in calculating the public
32 utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina
33 subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c.
34 earned during each quarter that begins on or after July 1, 2016, is two hundredths of one
35 percent (0.02%).

36 **SECTION 4.** For the 2015-2016 and 2016-2017 fiscal years, the percentage
37 rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2)
38 for each public utility's North Carolina non-competitive jurisdictional revenues as
39 defined by G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total
40 regulatory fee collected as a result of Sections 2 and 3 of this act, and shall be set to
41 ensure the total regulatory fee collected for each fiscal year is at least an amount
42 sufficient to defray the cost of the operations of the Commission and the Public Staff for
43 the upcoming fiscal year, including a reasonable margin for a reserve fund.

44 **SECTION 5.** This act is effective July 1, 2015.
45

SUPPORTING DOCUMENTS

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. **This is not an official fiscal note.** If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: February 11, 2014

TO: Chairs of the LRC on the Assessment of Regulated and Non-Regulated Industry

Utility Fees

FROM: Timothy Dale
Fiscal Research Division

RE: Fiscal Memo for Utility Fee LRC Proposed Legislation

FISCAL IMPACT					
(\$ in millions)					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
State Impact					
Special Fund Revenues:	\$0 to \$0	(\$0.82) to (\$1.06)	(\$1.10) to (\$1.46)	(\$1.10) to (\$1.46)	(\$1.10) to (\$1.46)
Special Fund Expenditures:	\$0 to \$0	\$0 to \$0	\$0 to \$0	\$0 to \$0	\$0 to \$0
State Positions:	N/A	N/A	N/A	N/A	N/A
NET STATE IMPACT	\$0 to \$0	(\$0.82) to (\$1.06)	(\$1.10) to (\$1.46)	(\$1.10) to (\$1.46)	(\$1.10) to (\$1.46)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Utilities Commission & Public Staff					
EFFECTIVE DATE: July 1, 2015					
TECHNICAL CONSIDERATIONS: Yes - See Technical Considerations Section					

BILL SUMMARY:

Section 1

Section 1 of the bill adds new definitions for the types of jurisdictional utility revenues that are subject to the public utility regulatory fee. "Non-competitive" jurisdictional

Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees-

LRC

Page 21

revenues will continue to be assessed the public utility regulatory fee established by the General Assembly. “Competitive” jurisdictional revenues will be assessed a lower regulatory fee that is established in statute. Competitive jurisdictional revenues are separated into two categories:

1. Subsection (h) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(h).
2. Subsection (m) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(m).

Section 1 also directs the Utilities Commission to adjust established utility rates to allow for the recovery of any future increases in regulatory fees. As an alternative, the Commission may approve a utility’s request to defer any future fee increases.

Section 2(a)

For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be set at 0.06%.

Section 2(b)

Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be decreased from 0.06% to 0.04%.

Section 3(a)

For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased to 0.05%.

Section 3(b)

Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased from 0.05% to 0.02%.

Section 4

Section 4 states that the regulatory fee applied to non-competitive jurisdictional revenues will be increased to generate sufficient revenue to offset revenue lost from the fee reductions detailed in Sections 2(a), 2(b), 3(a), and 3(b).

ASSUMPTIONS AND METHODOLOGY:

Background

There are currently five types of regulation on telecommunication providers in the State:

- 1) Price-Plan Regulation
- 2) Rate-of-Return Regulation
- 3) G.S. 62-133.5(h)
- 4) G.S. 62-133.5(m)
- 5) Certification

There are two types of regulated entities that would be eligible to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m):

- 1) Incumbent Local Exchange Companies (ILECs)
- 2) Competing Local Providers (CLPs)

Telecommunication providers can elect to be regulated under any of the regulation types listed above, with the exception that only CLPs are eligible for the certification process.

Information supplied by the Utilities Commission for the 2012 Calendar Year details the entity participation by regulation type as displayed in Table 1:

Table 1: Number of Providers by Regulation Type

Regulation Type	Number of ILECs	Number of CLPs
Price-Plan	4	0
Rate-of-Return	1	0
G.S. 62-133.5(h)	10	5
G.S. 62-133.5(m)	1	8
Certification	0	161

The same information provided by the Commission included jurisdictional revenues and regulatory fees paid to the Commission from all regulated entities. In addition, 10 of the 16 ILECs provided a breakdown between “competitive” or retail revenues and “non-competitive” or wholesale revenues. The same breakdown was not available for any CLPs.¹

In CY 2012, jurisdictional revenues received by all ILECs and CLPs totaled \$1,595,297,288. Of this amount, \$1,083,469,223 was derived from the 10 of 16 ILECs

¹ See Technical Consideration 2.

Appendix E

providing a breakdown of wholesale and retail revenues. The retail revenues reported by these 10 ILECs totaled \$894,596,745, or 83% of their total jurisdictional revenues.

Assumptions

For this analysis, the percentage of revenues derived from retail operations as reported by 10 of the 16 ILECs (83%) will be applied to the total jurisdictional revenues within the State to calculate total retail jurisdictional revenues. When the experience from the 10 reporting ILECs is applied to total jurisdictional revenue for all ILECs and CLPs, the result is total retail jurisdictional revenue of \$1,324,096,749.

All ILECs and CLPs listed above can elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m). The likelihood of a provider electing to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will vary among each provider. Since providers opting to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will pay a lower regulatory fee on retail revenues, an incentive exists for eligible providers to elect to be regulated under these statutes. If more providers choose to be regulated under these statutes, the fiscal impact on the Utilities Commission will increase. Since all ILECs and CLPs are eligible, but must elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), three scenarios are presented below:

1) Status Quo

This scenario assumes that providers continue to be regulated as they were regulated in 2012.

2) G.S. 62-133.5(m) Only

In the proposed legislation, the regulatory fee for retail revenue is the lowest for G.S. 62-133.5(m) regulated providers. This scenario assumes that all providers elect to be regulated under G.S. 62-133.5(m).

3) Best Estimate

This scenario provides staff's best estimate of the actual fiscal impact. Staff assumes that all eligible providers elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), with jurisdictional revenue divided equally amongst the two regulatory types.

Status Quo

In this scenario, no providers choose to change their existing type of regulation following a fee reduction to providers regulated by G.S. 62-133.5(h) or G.S. 62-133.5(m). Total jurisdictional revenues for G.S. 62-133.5(h) and G.S. 62-133.5(m) providers were \$560,595,932 and \$746,796,940 respectively. Estimated fee reduction impacts are presented in Table 2:

Table 2: Scenario 1 – Status Quo

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	\$560,595,932	\$746,796,940
Estimated Retail Revenue	\$465,294,624	\$619,841,460
FY 2015-16 Fee Reduction	(\$325,706)	(\$495,873)
FY 2016-17 Fee Reduction	(\$418,765)	(\$681,826)

G.S. 62-133.5(m) Only

In this scenario, all providers opt to be regulated under G.S. 62-133.5(m) due to the decreased regulatory oversight fee. Total jurisdictional revenue for all ILECs and CLPs eligible to be regulated under G.S. 62-133.5(m) is \$1,595,297,288. Estimated fee reduction impacts are presented in Table 3:

Table 3: Scenario 2 – G.S. 62-133.5(m) Only

	G.S. 62-133.5(m)
Total Juris. Revenue	\$1,595,297,288
Estimated Retail Revenue	\$1,324,096,749
FY 2015-16 Fee Reduction	(\$1,059,278)
FY 2016-17 Fee Reduction	(\$1,456,507)

Best Estimate

A variety of factors can influence a provider's election of regulatory coverage. Some examples would include ease of rate increases, positioning for funding from a possible universal service fund, inertia, cost of regulation, etc. Accurately forecasting which providers elect certain types of regulation in a lower-fee environment is improbable. As a result, staff has assumed that if the bill were to become law, all eligible providers will elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and jurisdictional revenues would be split equally between the regulatory types. Estimated fee reduction impacts are presented in Table 4:

Table 4: Scenario 3 – Best Estimate

	G.S. 62-133.5(h)	G.S. 62-133.5(m)
Total Juris. Revenue	\$797,648,644	\$797,648,644
Estimated Retail Revenue	\$662,048,375	\$662,048,375
FY 2015-16 Fee Reduction	(\$463,434)	(\$529,639)
FY 2016-17 Fee Reduction	(\$595,844)	(\$728,253)

To compare the estimated fiscal impacts of the fee reductions based on the three scenarios presented above, please refer to Table 5:

Table 5: Projected Competitive Revenue Fee Reduction Impact on NCUC/ Public Staff

Fee Reduction Impact on NC Utilities Commission/ Public Staff Revenue					
	FY 2014-15 (\$)	FY 2015-16 (\$)	Δ Fee Revenue (\$)	FY 2016-17 (\$)	Δ Fee Revenue (\$)
Scenario 1 (Status Quo)	\$14,662,857	\$13,841,278	(\$821,579)	\$13,562,266	(\$1,100,591)
Scenario 2 (G.S. 62- 133.5(m) Only)	\$14,662,857	\$13,603,579	(\$1,059,278)	\$13,206,350	(\$1,456,507)
Scenario 3 (Best Estimate)	\$14,662,857	\$13,669,784	(\$993,073)	\$13,338,760	(\$1,324,097)

Section 4 of the bill states that the regulatory fee applied to non-competitive jurisdictional revenues shall be adjusted to reflect the decrease in fees collected from competitive jurisdictional revenues.² While the bill does not adjust the regulatory fee, Table 6 displays the associated percentage increases necessary to offset revenue lost from the lower fee applied to competitive jurisdictional revenues.

Table 6 – Non-Competitive Revenue Fee Adjustment Necessary to Replace Reduced Receipts

Fee Increase to Maintain NC Utilities Commission/ Public Staff Revenue						
	FY 2015-16 Δ Fee Revenue (\$)	Fee Increase (%)	New Regulatory Fee (%)	FY 2016-17 Δ Fee Revenue (\$)	Fee Increase (%)	New Regulatory Fee (%)
Scenario 1 (Status Quo)	(\$821,579)	.008%	0.138%	(\$1,100,591)	.011%	0.141%

² See Technical Consideration 1.

Scenario 2 (G.S. 62-133.5(m) Only)	(\$1,059,278)	.011%	0.141%	(\$1,456,507)	.015%	0.145%
Scenario 3 (Best Estimate)	(\$993,073)	.010%	0.140%	(\$1,324,097)	.013%	0.143%
Note: Percentages rounded to the nearest one-thousandth of one percent *Utility regulatory fee is set at 0.13% for FY 2013-15						

SOURCES OF DATA: Utilities Commission, Public Staff

TECHNICAL CONSIDERATIONS:

- 1) Section 4 of the bill directs the regulatory fee for the Utilities Commission to be adjusted to offset any revenue lost as a result of Sections 2 and 3 of the bill. However, pursuant to G.S. 62-302(b)(2), the regulatory fee is either a percentage rate established by the General Assembly or \$6.25 for each quarter.

Currently, the General Assembly establishes the regulatory fee during the appropriations process. If the bill becomes law in its current form, Section 4 does not change current practice. The Utilities Commission would receive revenue resulting from the regulatory fee established by the next General Assembly.

For this bill to offset revenue reductions described in Sections 2 and 3 of this bill, the bill must either establish the regulatory fee for FY 2015-16 and FY 2016-17, or insert the regulatory fee in statute.

- 2) The Commission currently does not receive revenue information from telecommunication providers that separates retail service revenues from total jurisdictional revenues. Some providers may classify this information as trade secret information. For fee reporting purposes, requiring revenue reporting that lists retail revenue may be desired.



Bill Draft 2013-TDfz-19: Adjust the Utility Regulatory Fee.

2013-2014 General Assembly

Committee:	Date:	March 11, 2014
Introduced by:	Prepared by:	Peter Ledford
Analysis of:		2013-TDfz-19 Committee Counsel

SUMMARY: *This bill draft would allow the General Assembly to establish a different utility regulatory fee for the retail services of telecommunications providers that have elected to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and would set those rates for the 2015 and 2016 fiscal years.*

CURRENT LAW: Currently, all public utilities operating in the State pay a regulatory fee that is a percentage of their jurisdictional revenues. The regulatory fee is used to pay the expenses incurred by the Utilities Commission and the Public Staff in regulating public utilities. The amount of the fee is set by the General Assembly.

G.S. 62-133.5(h), enacted in 2009, allows a local exchange company whose territory is open to competition from other local providers to elect to participate in an alternative form of regulation. After electing to be regulated under (h), local exchange companies are no longer required to file tariffs and certain reports, including service line, access line, and service quality reports with the Utilities Commission. Local exchange companies may not elect regulation under subsection (h) unless they commit to providing stand-alone basic service to rural customers at rates comparable to rates charged to urban customers. Once a local exchange company elects regulation under the plan, it may not increase the rates for stand-alone basic service by more than the GDP price index unless otherwise authorized by the Utilities Commission. Other than to enforce this rate increase standard, the Commission cannot regulate rates or service standards for basic service.

G.S. 62-133.5(m), enacted in 2011, allows a local exchange company whose territory is open to competition from other local providers to elect to participate in another alternative form of regulation. After electing to be regulated under subsection (m), regulation is the same as for companies that are regulated under subsection (h), except that local exchange companies no longer have carrier of last resort responsibilities, are not eligible to receive funds from a state fund that may be established to support universal service, and are not required to provide stand-alone basic service to rural companies at rates comparable to rates charged to urban customers.

BILL ANALYSIS: **Section 1** of the bill draft would amend the statute governing the regulatory fee paid by public utilities by dividing the revenues of public utilities into three categories, non-competitive jurisdictional revenues, subsection (h) competitive jurisdictional revenues, and subsection (m) competitive jurisdictional revenues. Each

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category of revenue will be subject to its own regulatory fee, as established by the General Assembly.

Sections 2.(a) and 2.(b) would set the regulatory fee for subsection (h) competitive jurisdictional revenues at 0.06% for each quarter that begins on or after July 1, 2015, and at 0.04% for each quarter that begins on or after July 1, 2016.

Sections 3.(a) and 3.(b) would set the regulatory fee for subsection (m) competitive jurisdictional revenues at 0.05% for each quarter that begins on or after July 1, 2015, and at 0.02% for each quarter that begins on or after July 1, 2016.

Section 4 would direct that the regulatory fee for non-competitive jurisdictional revenues be adjusted to reflect the overall decrease in the total regulatory fee collected as a result of the fee for subsection (h) and subsection (m) competitive jurisdictional revenues such that the total regulatory fee collected for each fiscal year is at least sufficient to cover the operations of the Utilities Commission and the Public Staff.

EFFECTIVE DATE: This act becomes effective July 1, 2014.